

#### Article 4.--MULTIPURPOSE SMALL LAKES PROGRAM

11-4-1. Definitions. (a) "Authorized representative" means the individual designated by the sponsor to be responsible for all correspondence. The authorized representative shall be the point of contact for the proposed project.

(b) "Bathymetric survey" means a survey recording the water depth of a reservoir at various points.

(c) "Commission" means the state conservation commission.

(d) "Cost-share limit" means the limitation of state funds as established by statute for class I, class II, and class III projects.

(e) "Land treatment" means a structure or conservation practice that shall constitute a viable method of erosion abatement or sediment and pollution control.

(f) "Phase I letter of interest" means an initial written request from a sponsor for a determination of whether a proposed project is eligible for funding.

(g) "Phase II letter of intent" means a letter providing the necessary information for establishing the funds required for a proposed project. Project plans, budgets, and schedules shall be developed in sufficient detail to support the funding request. An approved general plan, which shall be submitted with the letter of intent, shall supply detailed information to allow comparison with other projects. The signed letter of intent and supporting documentation shall be reviewed by the state water-related agencies. An order of priority for the proposed projects shall be established from the information provided in the letter of intent and recommendations from the reviewing agencies.

(h) "Phase III application" means the application for the appropriated funds for a project. This term shall include construction documents including technical specifications, contract documents, bidding plans and procedures, and documentation showing that all required permits, titles, or options on the necessary lands and easements have been obtained.

(i) "Program" means the multipurpose small lakes program.

(j) "Project" means construction or renovation of a multipurpose small lake structure by the sponsor, including acquisition of land rights and installation of land treatment structures, dams, and recreation facilities.

(k) "Renovation," as defined in K.S.A. 82a-1603 and amendments thereto, shall include the act of restoring an existing structure to safe and efficient functioning for the original purpose or for a new purpose.

(l) "Renovation plan" means a plan that outlines the scope of work of the project and shall include the following:

(1) A benefit and cost analysis;

(2) documentation of how the renovation will return the structure to its original purpose or a new purpose; and

(3) basic construction and hydrologic data for planning purposes. (Authorized by and implementing K.S.A. 2005 Supp. 82a-1602; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-2. Phase I letter of interest. (a) Each prospective sponsor of new construction shall submit a phase I letter of interest to the commission to determine if the

proposed project will qualify for the program. The letter of interest shall be submitted on a form furnished by the commission.

(b) In the phase I letter of interest for renovation of an existing lake, the sponsor shall provide the commission with evidence that the proposed project meets the following initial eligibility requirements:

(1) The lake shall currently provide local public water supply benefits or be reasonably expected to do so in the future.

(2) The dam impounding the lake shall not be considered hydrologically inadequate or unsafe by the chief engineer.

(c) The phase I letter of interest shall be reviewed by the commission, and the sponsor shall be notified in writing if the proposed project qualifies for funding or does not qualify. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended Sept. 22, 2006.)

11-4-3. Phase II letter of intent. (a) (1) Any sponsor may submit a phase II letter of intent following receipt of a letter from the commission acknowledging that the proposed project is eligible for possible funding. The letter of intent, submitted on a form furnished by the commission, shall include an approved general plan, if applicable.

(2) Each proposed project involving community development block grant funds shall include a copy of an application for these funds. If the grant conditions change or new grants are awarded anytime after submittal of the proposal, the sponsor shall forward the most current version to the commission.

(3) The sponsor shall include an agricultural impact statement and resources inventory when five acres or more of prime agricultural land is taken under the power of eminent domain, if applicable.

(b) In addition to meeting the requirements specified in subsection (a), the sponsor of a renovation project shall submit a renovation plan with the letter of intent.

(c) The consideration of renovation projects shall be based on the following criteria:

- (1) The water supply status of the lake;
- (2) the back-up water supply source;
- (3) any prior use of multipurpose small lake program funds;
- (4) the population served by the lake;
- (5) the age of the lake;
- (6) the loss of storage capacity due to sedimentation;
- (7) the location of the lake relative to a total maximum daily load area;
- (8) the current and potential recreational uses of the lake;
- (9) the availability of bathymetric surveys and studies of the lake;
- (10) the sedimentation rate; and
- (11) a plan for prevention of future sedimentation.

(d) The original of the phase II letter of intent, plus one copy for each reviewing agency, shall be submitted to the commission no later than June 1 to be considered in the budget request for the next fiscal year. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 2005 Supp. 82a-1604, 82a-

1605, and 82a- 1606 and K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-4. Review process. (a) The agencies reviewing each phase II letter of intent shall include the following:

- (1) Kansas department of health and environment;
- (2) division of water resources, Kansas department of agriculture;
- (3) Kansas department of wildlife and parks;
- (4) Kansas biological survey at the university of Kansas;
- (5) Kansas state historical society; and
- (6) Kansas water office.

(b) Each agency's review comments shall be considered by the commission in the priority-ranking process. The proposed projects not recommended for funding shall be returned to the sponsor with the reasons for rejection. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-6. Phase III application. (a) After funds have been appropriated by the legislature for a project, the sponsor shall submit to the commission a phase III application. The application shall be submitted on a form furnished by the commission.

(b) The sponsor shall be responsible for securing all required permits before a state contract may be authorized. A copy of each required permit shall be furnished to the commission before any construction or renovation reimbursements are made.

(c) In addition to meeting the other requirements of this regulation, the sponsor of each renovation project shall submit a pre-excavation bathymetric survey estimating the volume of sediment to be excavated and a plan to address the safe handling and disposing of contaminants.

(d) The contractor selection committee shall include a representative of the commission. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended Sept. 22, 2006.)

11-4-7. State contract. (a) Each contract between the commission and the sponsor shall include the contractual provisions required by the commission and the state.

(b) Any contracts not completed by the end of the fiscal year in which appropriation was made may be extended by the commission. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a- 1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-8. Procedures. (a) Each engineering plan submitted to the chief engineer shall reflect economical design and shall conform to or exceed the construction requirements of the chief engineer.

(b) Each sponsor shall have acquired fee simple title or any other estate or interest in the site of the project, including all necessary easements and rights-of-ways, to

ensure undisturbed use and possession for the purpose of construction, operation, and maintenance for the life of the project.

(c) Standard bid procedures of the department of administration shall be used in the bidding process for construction projects.

(d) Standard bid procedures of the department of administration and the bid procedures of the commission shall be used in the bidding process for renovation projects.

(e) The sponsor shall maintain adequate accounting and fiscal records to reflect the receipt and expenditure of all funds on the project.

(f) The sponsor shall submit relevant documents and information as required by the commission.

(g) The sponsor shall ensure that a bid bond and a performance bond are secured by the contractor.

(h) The sponsor shall complete the project in accordance with the application, plans, specifications, and any modifications approved by the chief engineer. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 2005 Supp. 82a-1604, 82a-1605, and 82a-1606 and K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-9. Partial payments. (a) Partial payments of appropriated state funds shall be made by the commission to the sponsor no more often than once each month. Each partial payment shall be requested by the sponsor on a form furnished by the commission. All claims shall be documented by the sponsor as directed by the commission.

(b) Each partial payment request shall include a project progress report. Partial payments shall be made in proportion to the work completed on the project.

(c) Until final certification is made by the chief engineer, 10 percent of the total project cost-share shall be retained by the commission. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 2005 Supp. 82a-1604, 82a-1605, and 82a-1606 and K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended Sept. 22, 2006.)

11-4-10. Notification of completion. (a) The sponsor of a construction project shall notify the commission and the chief engineer when the project is completed and ready for final certification by the chief engineer. The notification of completion shall be submitted on a form supplied by the commission and shall include the following:

(1) The date of completion of the project;

(2) an itemized list of all costs of construction, engineering, surveys, geological investigations, inspections, and land acquisition; and

(3) a request for final payment of funds for the project.

(b) The sponsor of a renovation project shall notify the commission when the project is completed. The notification of completion shall be submitted on a form supplied by the commission and shall include the following information:

(1) The date of completion of the project;

(2) an itemized list of all costs of restoration, engineering, surveys, geological investigations, inspections, and land acquisition costs;

(3) a final bathymetric survey and a determination of the final excavated

volume; and

(4) a request for final payment.

(c) Final disbursement of the funds due from appropriated state funds shall be made after receipt of final certification from the chief engineer. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-11. Modifications to construction or renovation plan. Each modification of the original construction or renovation plan shall require the prior approval of the chief engineer and notification to the commission. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 2005 Supp. 82a-1604, 82a-1605, and 82a-1606 and K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended Sept. 22, 2006.)

11-4-12. Amendment to costs of project. (a) The sponsor shall notify the commission of all increases in costs and of all proposed additions to, deletions from, and modifications of the project.

(b) The sponsor may submit an amendment to the application for state funds to the commission for costs of construction, engineering, and land rights above the approved application funding. The amendment shall be submitted on a form furnished by the commission and shall include any documentation required by the commission.

(c) After review by the commission, each approved amendment for increased funding shall be designated as either of the following:

(1) Funded from appropriations made available for necessary amendments; or

(2) included as a line item request in the commission budget.

(d) Each amendment that is not approved shall be returned to the sponsor with each reason for rejection. The sponsor may appeal the nonapproved amendment in writing by requesting a hearing with the commission. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 2005 Supp. 82a-1604, 82a-1605, and 82a-1606 and K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended Sept. 22, 2006.)

11-4-13. Maintenance. The sponsor shall provide maintenance of the completed structure throughout its designed life or useful life, whichever is longer. The sponsor shall implement corrective maintenance or repair when needed. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a-1607; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-14. Annual inspection. The sponsor shall ensure that an annual operation and maintenance inspection of the completed structure is made. The inspection shall be made by a person experienced in dam operation and maintenance. The sponsor shall submit a copy of the operation and maintenance inspection report, on a form provided by the commission, to the commission and chief engineer. (Authorized by and implementing

K.S.A. 2005 Supp. 82a-1602; effective, T-86-43, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Sept. 22, 2006.)

11-4-15. Eligible components of renovation projects. The eligible components of a renovation project shall include the following:

- (a) Engineering;
- (b) repair of embankments;
- (c) construction of silt basins;
- (d) mobilization and demobilization of equipment;
- (e) excavation;
- (f) removal of sediment from a reservoir;
- (g) metal, concrete, and associated materials;
- (h) inundation mapping; and
- (i) land rights. (Authorized by K.S.A. 2005 Supp. 82a- 1602; implementing K.S.A. 2005 Supp. 82a-1603(m), 82a- 1604, 82a-1605, and 82a-1606; effective Sept. 22, 2006.)

11-4-16. Testing and disposal of sediment from reservoir. The testing of sediment by the sponsor may be required by the commission before or during excavation, or both. The sponsor shall be required to have one or more sufficient sediment storage basins for the disposal of excavated material. (Authorized by K.S.A. 2005 Supp. 82a-1602 and K.S.A. 82a-1607; implementing K.S.A. 82a- 1607; effective Sept. 22, 2006.)